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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN - 5 1997

In the Matter of)

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Application by SBC Communications, Inc.)
For Authorization Under Section 271 of the)
Communications Act to Provide In-Region,)
InterLATA Service in the State of Oklahoma)
_____)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
CC Docket No. 97-121

MOTION TO ACCEPT LATE FILED PLEADING

The Battle Group, Inc. d/b/a TBG Communications ("TBG"), moves to accept the filing of the attached opposition to the application of SBC Communications, Inc. ("SBC"), for authority to provide in-region interLATA service in the state of Oklahoma. In support whereof, the following is shown.

TBG is the licensee of the Government Services Administration ("GSA") to provide pay telephone services on GSA properties. Since approximately mid-May, TBG has attempted to have SBC's operating company, Southwestern Bell Telephone Company ("SWBT"), respond to an order placed to relocate four (4) payphones on GSA premises located in El Paso, Texas. Rather than implementing this simple request, SWBT has adamantly insisted that TBG provide it with evidence of its authority to manage the payphones in question and, despite having been provided with that evidence, SWBT has adamantly refused to accept it and has continued to insist on TBG's supplying yet more evidence pertaining to these payphones.

TBG requests that the attached Opposition be accepted at this late date because the facts underlying that opposition developed after the original comment date of May 1, 1997 and after the reply date of May 27, 1997. In regard to the latter date, it was not until May 28, 1997 that a last

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ditch effort was made to obtain SWBT's voluntary cooperation to fulfill the simple order that had been requested of it. On May 28, 1997, a SWBT representative, in fact, asked for the location of the four phones, a copy of the GSA written LOA appointing, in addition to the GSA licenses themselves, TBG as its 0+ and 1+ provider and a copy of the order to relocate the phones. These materials, despite having been previously provided to SWBT, were transmitted once again via facsimile to the SWBT representative in San Antonio, Texas.

No action was forthcoming from SWBT after receipt of these materials. SWBT was again contacted in the hope that it would be confirmed that action to relocate the phones had been instituted. Instead, not until June 2, 1997, did SWBT's representative to whom the materials had been faxed as requested, return the undersigned's follow up call of May 30, 1997. On June 2, 1997, the SWBT representative, instead of providing information about the status of the request for relocation of the phones, left a voice mail message that a new representative had been appointed to handle the matter. It was further indicated that that representative would be calling the undersigned, but no phone number or other information about this new representative or his/her location was provided in the voice mail message.

The new representative was another SWBT attorney. Not having heard anything regarding SWBT's undertaking to relocate the payphones as requested, TBG filed a letter with the FCC's Enforcement Division on June 4, 1997, indicating that SWBT was in direct violation of its recently approved CEI plan for payphones and was denying service in violation of sections 201 and 202 of the Act. The letter also sought to establish a conference call in which this matter could be addressed and resolved.

On June 5, 1997, the other representative of SWBT did in fact contact the undersigned. The new representative indicated he lacked familiarity with the matter, would study it and get back, perhaps even yet today, June 5, 1997.

The foregoing indicates that the unfortunate conclusion (that SWBT did not intend and still does not intend to fulfill its 201, 202, CEI and equal access obligations in regard to TBG's order to relocate four payphones) could not have been made prior to the original comment date or the reply comment date. Moreover, it was not until June 5, 1997, this very date, that SWBT's intent to stonewall and continue its unlawful conduct was reaffirmed by the call of the new SWBT representative who undertook to do nothing, but "study" the problem.

Hence, TBG submits that good cause has been shown to accept its late-filed opposition. Further, in that this opposition is being filed less than 10 days after the reply date, and presents a straight forward factual pattern of indefensible unlawful and anticompetitive conduct, acceptance of the opposition will not seriously interfere with the Commission's statutorily imposed processing time and will work no cognizable harm on any party.

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In view of the foregoing, it is respectfully requested that the Motion to Accept a Late-Filed Opposition be granted. In the alternative, TBG requests that the attached be included in the record as informal comments.

Respectfully submitted,

The Battle Group d/b/a TBG Communications

By: 

Charles H. Helein
Its Attorney

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Dated: June 5, 1997

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OPPOSITION

The Battle Group, Inc. d/b/a TBG Communications ("TBG"), hereby opposes the grant of the application of SBC Communications, Inc. ("SBC"), for authority to provide in-region interLATA service in the state of Oklahoma. In support whereof, the following is shown.

TBG is the licensee of the Government Services Administration ("GSA") to provide pay telephone services on GSA properties. Since approximately mid-May, TBG has attempted to have SBC's operating company, Southwestern Bell Telephone Company ("SWBT"), respond to an order placed to relocate four (4) payphones on GSA premises located in El Paso, Texas. Rather than implementing this simple request, SWBT has adamantly insisted that TBG provide it with evidence of its authority to manage the payphones in question and, despite having been provided with that evidence, SWBT has adamantly refused to accept it and has continued to insist on TBG's supplying yet more evidence pertaining to these payphones.

The attached letter sets forth additional details about SWBT's violation of sections 201 and 202 of the Act, violations of SWBT's own payphone CEI plan and the facts demonstrating that SWBT is denying the most fundamental right of a competitor, equal access to its local exchange network. While, SWBT's conduct presently implicates services in Texas and not Oklahoma, the

conduct of SWBT is so patently anti-competitive, so contrary to the most fundamental duties imposed on it by the Act (fulfilling reasonable requests for service on a nondiscriminatory basis), and so blatantly contrary to its own official representations to this Commission in its payphone CEI filing (promising to accord its competitors with equality of treatment), that the inferences that must be drawn are that SWBT's conduct in stonewalling the most simple request, like that involved here, indicates it has no intention of complying with the check list which it must meet in order to gain competitive entry under Section 271 of the Communications Act.

Based on the foregoing and the attached, it is respectfully submitted that SBC's application to provide in-region, interLATA services in the State of Oklahoma be denied.

Respectfully submitted,

The Battle Group d/b/a TBG Communications

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Dated: June 5, 1997